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C O N F I D E N T I A L SECTION 01 OF 02 ANKARA 000833

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TAGS: [PGOV](#) [PHUM](#) [PREL](#) [OSCE](#) [TU](#)

SUBJECT: TURKISH PARLIAMENT (FINALLY) AMENDS "ARTICLE 301"

REF: A. ANKARA 714

[1](#)B. ANKARA 59

Classified By: Political Counselor Janice G. Weiner, reasons 1.4 (b),(d)  
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[1](#)1. (C) Summary and Comment: Following an all-night session and two years of heated debate, Turkey's parliament voted 250-65 to amend controversial Turkish Penal Code Article 301 (criminalizing "insulting Turkishness") at 5 am April 30. The bill, which requires that the Justice Minister authorize 301 investigations, is expected to be signed into law by President Gul later this week. During the debate, ruling Justice and Development Party (AKP) deputies argued the legislation would help erase an ugly stain on Turkey's reputation as a democracy, while right-wing Nationalist Action Party (MHP) leader Devlet Bahceli railed against the changes as tantamount to treason. He called for a referendum to let the people judge Article 301. Many contacts, including some MPs, see the amendments as an important symbolic step forward, if largely cosmetic; they fear prosecutors will shift to similar existing legal provisions to suppress speech. Despite its imperfections, the amended Article 301 is a long-awaited positive sign that AKP, itself under fire in a closure case, is moving forward with its reform agenda in the face of ardent opposition in parliament and from the Turkish establishment. End Summary and Comment.

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AKP Amends Article 301  
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[1](#)2. (SBU) Following a fierce eight-hour debate, Turkey's parliament voted 250-65 to amend controversial Turkish Penal Code Article 301, under which thousands of people have been prosecuted and 745 convicted since 2003 for "insulting Turkishness. The amendments, viewed by many as largely cosmetic, include:

--changing the law's name to "Degrading the Turkish Nation, the Republic of Turkey, and Institutions and Organs of the State";

--replacing "insulting Turkishness" with "degrading the Republican State of Turkey, the Parliament, the Government of Turkey, the Judiciary, the Military, or the Police"; and

--reducing the maximum sentence from three to two years.

The new law also assigns the Minister of Justice the role of

authorizing the opening of an investigation; AKP leaders were deadlocked over that issue for months, with PM Erdogan preferring the authority vest in the president and others advocating the Speaker. The government has not indicated how the MOJ will implement its authorization role.

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Marathon All-Night Parliamentary Debate  
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¶3. (U) The large vote turnout at 5 a.m. was a testament to deputies' passionate feelings on this hotly debated issue. Speaking for many AKP MPs, AKP whip Bekir Bozdag told the general assembly Article 301 had stained Turkey's image. Noting the irony of Turkish Nobel laureate author Orhan Pamuk showing the world the beauty of Turkey only to be prosecuted under Article 301, Bozdag said onlookers threw eggs and tomatoes at Pamuk as he entered the courthouse to defend himself against the charge of insulting Turkishness.

¶4. (U) Opposition parties fiercely criticized the amendments. MHP leader Devlet Bahceli stated, "I am making this call for the last time: come back from the brink of making a mistake. Do not pave the way for insults to Turkish values." During MHP's parliamentary group meeting, Bahceli suggested letting the Turkish public decide the issue in a referendum. He urged PM Erdogan to listen to this suggestion and added, "If you prefer to commit treason against our nation, AKP will be wiped out."

¶5. (U) Pro-Kurdish Democratic Society Party (DTP) MP Fatma Kurtulan said it was "illusive" to believe the amendment would advance free speech, saying it was designed to please the EU but did not bring substantial changes. "What needs to

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be done is to abolish 301 altogether," Kurtulan stated.

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Europeans: It's About Time  
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¶6. (C) European Commission Political Counselor Diego Mellado told us, "It's about time." Mellado said the amendment was an important symbolic act but the EC is already focusing on other restrictive laws the GOT must amend to comply with EU norms. German Political Officer Sebastian Fischer found it important the government had "toned down the most salient limit on freedom of expression." He believes the government has sent a message to prosecutors that baseless political cases will not be tolerated. Swedish political officer Carina Martensson called the amendments "too little, too late." She told us the message to the judiciary was substantially weakened by AKP infighting and delays. Martensson predicted other Penal Code articles would continue to be used to restrict speech.

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Judicial Implementation Key  
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¶7. (C) Speaking at a Turkish think tank while parliament debated the bill, Ankara University Professor Baskin Oran called the amendments "cosmetic." Constitutional Law professor Zuhtu Arslan agreed, noting that prosecutors would continue to persecute free speech under the Anti-Terror Law, the Law Against Insulting Atatürk, and the Constitution. Hacettepe University Political Science Professor Levent Korkut called the amendments an important symbolic step but believed progress would depend on the judiciary's implementation. Korkut said the ultranationalist mentality of judges and prosecutors makes it unlikely the judiciary will strengthen freedom of expression protections soon.

¶8. (C) AKP Vice Chair Dengir Mir Mehmet Fırat recently voiced similar concerns to us, warning that prosecutors could use other articles in the penal code to suppress speech. Fırat, an opponent of the original 301, believes the judicial mentality, rather than the text of the law, was the critical

factor driving 301 prosecutions.

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